



January 26, 2006

## HOUSE BILL No. 1235

DIGEST OF HB 1235 (Updated January 25, 2006 10:49 am - DI 103)

**Citations Affected:** IC 16-18; IC 16-21; IC 16-22; IC 16-41; IC 34-30; noncode.

**Synopsis:** Isolation and quarantine. Establishes the procedure for a public health authority to obtain or issue an order to restrict the movement of an individual in the least restrictive manner when there is evidence that the individual has been exposed to a communicable disease. Provides that a person, medical clinic, health care facility, or other location that meets certain criteria is immune from civil liability resulting from an act or omission in providing health care services during an event that is declared a disaster. Makes it a Class A misdemeanor to violate the conditions of quarantine or isolation. Repeals superseded provisions concerning the isolation of certain individuals.

**Effective:** July 1, 2006.

**Ruppel, Welch**

January 12, 2006, read first time and referred to Committee on Public Safety and Homeland Security.  
January 25, 2006, amended, reported — Do Pass.

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HB 1235—LS 6790/DI 69+



January 26, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE BILL No. 1235

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 16-18-2-194.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2006]: **Sec. 194.5. "Isolation", for purposes**  
4 **of IC 16-41-9, means the physical separation, including**  
5 **confinement or restriction, of an individual or a group of**  
6 **individuals from the general public if the individual or group is**  
7 **infected with a communicable disease, in order to prevent or limit**  
8 **the transmission of the disease to an uninfected individual.**

9       SECTION 2. IC 16-18-2-298.5 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2006]: **Sec. 298.5. "Public health authority",**  
12 **for purposes of IC 16-41-9, means:**

- 13       (1) the state health commissioner of the state department;  
14       (2) a deputy or an assistant state health commissioner  
15       appointed by the state health commissioner, or an agent  
16       expressly authorized by the state health commissioner; or  
17       (3) the local health officer.

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SECTION 3. IC 16-18-2-302.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 302.6. "Quarantine", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction of movement, of an individual or a group of individuals who may have been exposed to a communicable disease during the disease's period of communicability, in order to prevent or limit the transmission of the disease to an uninfected individual.**

SECTION 4. IC 16-21-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. With the approval of the budget director and upon the recommendation of the budget committee, each county that has incurred costs for a carrier (~~other than costs incurred under IC 16-41-9-11~~) under:

- (1) IC 16-41-1;
- (2) IC 16-41-2;
- (3) IC 16-41-3;
- (4) IC 16-41-5;
- (5) IC 16-41-6;
- (6) IC 16-41-7;
- (7) IC 16-41-8;
- (8) IC 16-41-9; or
- (9) IC 16-41-13;

is entitled to a pro rata share of the money remaining at the end of the state fiscal year in the fund established under this chapter.

SECTION 5. IC 16-22-8-31, AS AMENDED BY P.L.184-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of a local health officer.

(b) Orders, citations, and administrative notices of violation issued by the director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-42-5-28, IC 33-36-3-5(b), or IC 36-1-6-4.

(c) Orders, health directives, and restrictions issued by the state health commissioner, the state health commissioner's legally authorized agent, a designated health official, or the director of the division of public health may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with ~~IC 16-41-9-11~~ or ~~IC 16-41-9-11~~. **IC 16-41-9.**

(d) A change of venue from the county may not be granted for court

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proceedings initiated under this section.

SECTION 6. IC 16-41-9-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. (a) If the public health authority has reason to believe that:**

**(1) an individual:**

**(A) has been infected with; or**

**(B) has been exposed to;**

**a dangerous communicable disease or outbreak; and**

**(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;**

**the public health authority may petition a circuit or superior court for an order imposing isolation or quarantine on the individual. A petition for isolation or quarantine filed under this subsection must include a brief description of the facts supporting the public health authority's belief that isolation or quarantine should be imposed on an individual.**

**(b) Except as provided in subsections (e) and (k), an individual described in subsection (a) is entitled to notice and an opportunity to be heard, in person or by counsel, before a court issues an order imposing isolation or quarantine. A court may restrict an individual's right to appear in person if the court finds that the individual's personal appearance may expose an uninfected person to a dangerous communicable disease or outbreak.**

**(c) If an individual is restricted from appearing in person under subsection (b), the court shall:**

**(1) hold the hearing in a manner that would allow all parties to fully and safely participate in the proceedings under the circumstances; or**

**(2) require the individual to appear by counsel.**

**(d) If the public health authority proves by a preponderance of the evidence that:**

**(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and**

**(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;**

**the court may impose isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine,**

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including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(e) If the public health authority has reason to believe that an individual described in subsection (a) may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard, the public health authority may seek in a circuit or superior court an emergency order of quarantine or isolation by filing a verified petition for emergency quarantine or isolation. The verified petition must include a brief description of the facts supporting the public health authority's belief that:

(1) isolation or quarantine should be imposed on an individual; and

(2) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard.

(f) If the public health authority proves by a preponderance of the evidence that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak;

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual; and

(3) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard;

the court may issue an emergency order imposing isolation or quarantine on the individual. An emergency order of isolation or quarantine expires after fourteen (14) days unless renewed in accordance with subsection (l). The court shall establish the other conditions of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(g) A court may issue an emergency order of isolation or quarantine without the verified petition required under subsection (e) if the court receives sworn testimony of the same facts required in the verified petition:

(1) in a nonadversarial, recorded hearing before the judge;

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(2) orally by telephone or radio; or

(3) in writing by facsimile transmission (fax).

If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (2), the court shall direct the public health authority to sign the judge's name and to write the time and date of issuance on the proposed emergency order. If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (3), the court shall direct the public health authority to transmit a proposed emergency order to the court, which the court shall sign, add the date of issuance, and transmit back to the public health authority. A court may modify the conditions of a proposed emergency order.

(h) If an emergency order of isolation or quarantine is issued under subsection (g)(2), the court shall record the conversation on audiotape and order the court reporter to type or transcribe the recording for entry in the record. The court shall certify the audiotape, the transcription, and the order retained by the judge for entry in the record.

(i) If an emergency order of isolation or quarantine is issued under subsection (g)(3), the court shall order the court reporter to retype or copy the facsimile transmission for entry in the record. The court shall certify the transcription or copy and order retained by the judge for entry in the record.

(j) The clerk shall notify the public health authority who received an emergency order under subsection (g)(2) or (g)(3) when the transcription or copy required under this section is entered in the record. The public health authority shall sign the typed, transcribed, or copied entry upon receiving notice from the court reporter.

(k) The public health authority may issue an immediate order imposing isolation or quarantine on an individual if exigent circumstances, including the number of affected individuals, exist that make it impracticable for the public health authority to seek an order from a court. An immediate order of isolation or quarantine expires after fourteen (14) days unless renewed in accordance with subsection (l). The public health authority shall establish the other conditions of isolation or quarantine. The public health authority shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public. The public health authority shall post a copy of the order where it is likely to be seen by individuals subject to the

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order.

(l) The public health authority may seek to renew an order of isolation or quarantine or an immediate order of isolation or quarantine issued under this section by doing the following:

(1) By filing a petition to renew the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with:

(A) the court that granted the emergency order of isolation or quarantine; or

(B) a circuit or superior court, in the case of an immediate order.

The petition for renewal must include a brief description of the facts supporting the public health authority's belief that the individual who is the subject of the petition should remain in isolation or quarantine.

(2) By providing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with a copy of the petition and notice of the hearing at least twenty-four (24) hours before the time of the hearing.

(3) By informing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine that the individual has the right to:

(A) appear, unless the court finds that the individual's personal appearance may expose an uninfected person to a dangerous communicable disease or outbreak;

(B) cross-examine witnesses; and

(C) counsel, including court appointed counsel in accordance with subsection (c).

(4) If:

(A) the petition applies to a group of individuals; and

(B) it is impracticable to provide individual notice;

by posting the petition in a conspicuous location on the isolation or quarantine premises.

(m) If the public health authority proves by a preponderance of evidence at a hearing under subsection (l) that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected

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individual;  
the court may renew the existing order of isolation or quarantine or issue a new order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(n) Upon the motion of any party, or upon its own motion, a court may consolidate cases for a hearing under this section if:

- (1) the number of individuals who may be subject to isolation or quarantine, or who are subject to isolation or quarantine, is so large as to render individual participation impractical;
- (2) the law and the facts concerning the individuals are similar; and
- (3) the individuals have similar rights at issue.

A court may order an attorney to represent a group of similarly situated individuals if the individuals can be adequately represented.

(o) A public health authority that imposes a quarantine may allow:

- (1) the parent or guardian of a child who is quarantined under this section; or
- (2) an adult family member of an adult who is quarantined under this section;

to remain with the quarantined individual in quarantine if the parent, guardian, or adult family member receives a vaccination or treatment for the disease or condition for which the quarantine is imposed.

(p) If an individual who is quarantined under this section is the sole parent or guardian of one (1) or more children who are not quarantined, the child or children shall be placed in the residence of a relative, friend, or neighbor of the quarantined individual until the quarantine period has expired. Placement under this subsection must be in accordance with the directives of the parent or guardian, if possible.

(q) State and local law enforcement agencies shall cooperate with the public health authority in enforcing an order of isolation or quarantine.

(r) The court shall appoint an attorney to represent an indigent individual in an action brought under this chapter or under IC 16-41-6. If funds to pay for the court appointed attorney are not available from any other source, the state department may use the

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proceeds of a grant or loan to reimburse the county, state, or attorney for the costs of representation.

(s) A person who knowingly or intentionally violates a condition of isolation or quarantine under this chapter commits violating quarantine or isolation, a Class A misdemeanor. Each day that a violation continues constitutes a separate offense.

(t) The state department may adopt rules under IC 4-22-2 to implement this section.

SECTION 7. IC 16-41-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) ~~A designated health official~~ **The local health officer** may file a report with the court that states that a carrier who has been detained under this article may be discharged without danger to the health or life of others.

(b) The court may enter an order of release based on information presented by the ~~designated health official~~ **local health officer** or other sources.

SECTION 8. IC 16-41-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier:

(1) provides inaccurate or misleading information; or

(2) later becomes able to pay the full cost of care;

the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under ~~section 11~~ **section 1.5** of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this chapter, shall be reimbursed by the state under IC 16-21-7 to the extent funds have been appropriated for reimbursement.

SECTION 9. IC 34-30-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2006]:

**Chapter 13.5. Health Care: Immunity for Persons Providing Services in a Disaster**

**Sec. 1. Except as provided in section 2 of this chapter, a person who meets the following criteria is immune from civil liability resulting from an act or omission relating to the provision of health care services in response to a disaster (as defined in IC 10-14-3-1):**

**(1) Has a license to provide health care services under Indiana law or the law of another state.**

**(2) Provides a health care service:**

**(A) within the scope of the person's license to another person; and**

**(B) at a location where health care services are provided during an event that is declared as a disaster.**

**Sec. 2. A person described in section 1 of this chapter is not immune from civil liability if the damages resulting from the act or omission relating to the provision of the health care services resulted from the person's gross negligence or willful misconduct.**

**Sec. 3. A medical clinic, health care facility, or other location that is providing health care services during an event that is declared as a disaster is immune from civil liability resulting from an act or omission relating to the provision of health care services in response to a disaster by a health professional licensed to provide the health care service under Indiana law or the law of another state if the person is acting during an event that is declared as a disaster.**

**SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 16-41-9-1; IC 16-41-9-2; IC 16-41-9-4; IC 16-41-9-11; IC 16-41-9-14.**

**SECTION 11. [EFFECTIVE JULY 1, 2006] IC 16-41-9-1.5(s), as added by this act, applies only to crimes committed after June 30, 2006.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1235, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1235 as introduced.)

RUPPEL, Chair

Committee Vote: yeas 7, nays 0.

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